

C.B.I.'s Evil Designs against Bombay Bomb Blast Accused

The Central Bureau of Investigation of India is playing with the lives of the accused named in 12 March 1993's explosions in Bombay as Mumbai was then known.

There can be no two opinions that the sad events were the ghastliest in Indian History in which 257 people were killed in the series of bomb explosions.

The Bombay Police filed the charge-sheet against 189 accused including some absconding prime accused. With the passage of time the list of accused increased by addition of new accused while it also decreased due to killings/deaths of some of the accused. Finally when the case was ready to see its verdict there were 123 accused before the trial court after a period of over 13 and half years of the events.

The trial court during last quarter of 2006 and first three quarters of 2007 scored a century by convicting 100 accused persons while 23 accused were acquitted. The century of convicted accused included two sixes by awarding death sentence to 12 accused persons, five boundaries by sentencing 20 accused persons to undergo life imprisonment. The other 68 runs were scored by awarding various sentences ranging between 14 years to 2 years.

I was also convicted for 7 years for my failure to seize the contraband explosive in my capacity as a superintendent of customs Alibag where as the contraband explosives said to have landed about 200 kms from my place of posting. I was however acquitted of the charge of conspiracy.

I had completed the sentence. Due to paucity of funds though being innocent I could not dare to challenge my conviction. However the Central Bureau of Investigation's challenge against my acquittal of the charge of conspiracy after a lapse of over two years made me to file appeal against my conviction.

The two judges' bench of the Supreme Court of India heard the appeals.

In Indian judicial system the death sentence awarded by the trial court is required to be confirmed by next higher court and as the case before the trial court was conducted under the Terrorist and Disruptive Activities (Prevention) Act 1987, (TADA(P) Act) the Supreme Court of India is the first appeal court. The TADA Act prescribed appeal period of 30 days. The Indian Parliament on 23 May 1995 repealed the said TADA (P) Act due to its gross misuse. Now by virtue of saving clause for pending cases the case was tried under repealed TADA (P) Act by way of Legal Fiction.

During the trial, evidence of 688 prosecution witnesses was recorded in more than 22,000 pages; statements of accused were recorded in over 10,000 pages. Number of documents both in English and vernacular languages were filed which number more than thousands. The judgement itself ran into about 4350 pages.

The Rules prescribed by the Supreme Court of India required every appeal to be typed one side in a particular font "Courier New" with font size of 14 in double space and every vernacular document to be translated in English.

The C.B.I. had filed the documents as required by the Supreme Court of India. The C.B.I. filed two sets of translation

of the documents- one by translated by itself and one by the office of the Chief Translator and Interpreter of the Bombay High Court.

Before I deal how the C.B.I. has played in retyping with the original documents or translating the vernacular documents to its advantage, I would like to state in brief what was the conduct of Public Prosecutor before the trial court. During the trial the prosecution was not only unfair towards the accused but also adopted threatening approach towards the judiciary.

From 4 Nov 1993 to March 1996 the trial court was presided over by judge Shri J.N.Patel and thereafter by judge Shri P. D. Kode till the verdict was delivered in October 2007.

Judge Shri P. D. Kode in his first few days had realised that the prosecution was adopting the threatening approach towards the court. Finally his inner voice burst on 5 July 1996 when he ordered issuance of a show cause notice to one of the investigating officer. Upon this Mr J. R. Madon the Special Public Prosecutor threatened the court that unless the court withdraws the show cause notice the prosecution would hereafter not cooperate and would oppose each and every application and that he would be filing an application to that effect. As I had witnessed such incidents earlier I had filed an Application being M.A. 311 of 1996 to uphold the sanctity of judiciary. The prosecution tried its best to oppose my application and declared that I had no locus standi and that the application was made with ulterior motive and that I should be warned not to indulge in such uncalled for applications.

At the time of disposal of the said application I was asked by the judge as to whether I wanted to pursue further. I submitted that I do not want the court to waste its judicial

time and that let there be a fair trial and that I had pointed out the facts happened in the open court. Upon this the court passed following order:

P.C.:- Considering the contents of the appln. the Ct. appreciate the spirit in which the appln. is not pressed. Both the parties are requested to note that during the course of proceedings at the spur of the moments sometime some events do occur, however, both the parties to take due care to maintain the decorum of the Ct. with this remark the appln. stands disposed off as not being pressed.

(Abbreviations: P.C.= Per Coram; appln.=application;
Ct= Court)

The trial concluded in 2001-2002 and verdict was delivered in 2006-2007.

In 2010 the C.B.I. filed appeal and supplied CDs containing the electronic documents in tiff.pdf format which contained the images of the original evidence, confessions, some remand & misc applications and sets of retyped evidence as required in the format prescribed by the Supreme Court and C.B.I. translations of confessions filed in the Supreme Court of India under title Death Reference Case.

Since the documents were in new fonts and in double space it was apparent that the copying of original documents was not in page to page of the documents existed before the trial court. As such it was practically not possible even for an expert in Office Documents to point out whether there exist any discrepancies between the original and in its new format. The appeal contains an affidavit of the counsel of C.B.I. that

the supporting documents are true copies of the originals and in case of translation that it is true and correct translation.

The C.B.I. filed 48 appeals involving 67 accused persons. One appeal against total acquittal of 3 relations of prime accused Tiger Memon which also included appeal against one lady member of Memon family who was sentenced to life imprisonment. 10 appeals against total acquittal of 17 persons, four appeals in life sentence while 33 appeal involving 42 convicts who were acquitted of charge of conspiracy.

The C.B.I. in its 48 appeals filed the types copies of supporting documents which contained some common documents such as evidence recorded by the trial court and confessions recorded during investigations. A close scrutiny of common documents claimed to be true copies of the evidence recorded by the trial court it is observed that these common documents differed from accused to accused thereby proving that the premier investigation agency of India is playing with the lives of the accused persons named in the case.

A chart below is prepared from some of the documents furnished by the C.B.I. which have more than one set of evidence of the same witnesses.

PW	Court Pages	C.B.I. documents filed in Supreme Court	Accused	Pages
PW 2	309	Two different sets	A-2	486
			A-46	482
			A-94	482
PW 88	38	Two different sets	A-66	61
			A-133	55
PW 89	23	Three different sets	A-66	34
			A-74	29

			A-133	33
PW 94	12	Two different sets	A-70	18
			A-83	19
PW 95	8	Three different sets	A-74	11
			A-134	11
			A-136	10
PW 96	11	Three different sets	A-74	14
			A-134	16
			A-136	17
PW 97	28	Five different sets	A-70	41
			A-74	37
			A-83	42
			A-134	39
			A-136	41
PW 103	13	Three different sets	A-17	21
			A-79	19
			A-106	22
PW 105	9	Two different sets	A-17	13
			A-79	12
PW 106	12	Three different sets	A-17	20
			A-79	18
			A-106	18
PW 108	46	Three different sets	A-17	71
			A-55	72
			A-60	71
PW 137	31	Two different sets	A-34	50
			A-42	49
			A-55	49
			A-60	49
PW 145	11	Two different sets	A-27	15
			A-62	15
PW 146	66	Two different sets	A-17	101
Original para 6, 66,67,68,69 & part of 70, 108, 109, 110, part of 111, part of 114,115,116, part of 117 deleted from typed versions.			A-82	100

PW 154	34	Two different sets	A-82	44
Part of para 41, and para 42, 43 deleted purposely. The name of the PW 154 on first page in A-134's file is typed as that of PW 156			A-134	53
PW 158	5	Two different sets	A-70	7
			A-83	7
PW 159	3	Two different sets	A-70	5
			A-83	5
PW 160	4	Two different sets	A-70	5
The main deposition of the witness against the accused policemen has been deleted from both the sets.			A-83	5
PW 211	92	Two different sets	A-53	142
			A-120	146
PW 284	30	Two different sets	A-28	40
			A-131	44
PW 602	9	Two different sets	A-31	12
			A-85	12

To prove my say I reproduce following blunders done by the C.B.I. with evil design to prejudice the appeal court.

The case against me rests upon the prosecution story that I and my senior officer also an accused (A-102) along with PW 154, a customs superintendent held a meeting with absconding accused Mohamed Dossa at Hotel Persian Durbar at Panvel on 6 Jan 1993.

The C.B.I set had deliberate omission an important question asked to PW 154 in cross examination:

Para 43 of the deposition were among other paras deleted had the admission of PW 154:

“However, the said officers told me about what I should speak regarding the case.”

The above reference to “**said officers**” is for C.B.I. officers when PW 154 was called to C.B.I. office before PW 154 gave the evidence before the trial court.

Question:- Is it correct that one of the things that was told to you by CBI officers in the Year 1994 was that you should say that you, Supdt. Sayyed and Accused No. 102 R.K. Singh had visited Persian Darbar Hotel on 6.1.1993?

Answer:- It is true

Besides the above supporting documents, the C.B.I., also filed translated versions of 81 confessions. On each of the confession filed by the C.B.I., it is specifically typed that it is ‘English translation of confessional statement of accused’. The most significant aspect of these translations is that the originals of the following five confessions are in English.

A-53	Samir Hingora
A-117	Sanjay Dutt
A-118	Yusuf Mohsin Nallwalla
A-124	Kersi Bapuji Adajenia
A-134	Salim Mira

The other evil designs created by the C.B.I. are to give a total different meaning while translating the vernacular documents to prejudice the Supreme Court of India.

In translating one Exh 806 from Marathi language to English the CBI had reached to such a low level that it tried to prove my association with smuggler

Marathi version "दिनांक २८.१.९३ रोजी रात्री ९.०० वाजता मी आणि श्री सिंग साहेब असे जीपने माणगांव श्रीवर्धन येथे पेट्रोलिंग फिरत गेलो."

The free translation reads as "On 28-1-93 I and Shri Singh had patrolled in the area of Mangaon Shrivardhan."

Since Shri Singh (A-102) was my senior officer there is no criminality in the original version. However the documents filed by the C.B.I., in its appeal against me has the version:

Mr. Potdar and I patrolled in Mangaon and then went to Shrivardhan.

The name of Shri Singh was deliberately translated as Mr Potdar. Incidentally Mr Potdar also an accused for his role as landing agent of contraband explosives and arms and who is also alleged to have driven the government jeep of customs department along with customs inspector Gurav (A-82) who is also an accused in the case.

The C.B.I. has done yet another attempt to prejudice the Supreme Court while translating a version from Ex 855A confession of A-15 Dawood Phanse. The original version in Hindi reads as

१) अलीबाग कस्टम के तीन लाख रुपये मेरेसे इन्स्पेक्टर पडवल व सुपरिटेडेंट सैयद 14-15 फरवरी के लगभग मेरे घरपर आकर लेकर गये.

The official translation by the office of the Chief Translator and Interpreter Bombay High Court reads as

(1) Inspector Padwal and Superintendent Saiyyad came to my residence on 14-15 February and took Three Lakh Rupees from me for Alibagh Custom.

The C.B.I. however translated it

Rs. 3 lacs collected from my residence for Alibag custom officers namely inspector Padawal and Supdt. Sayyed

The hitch lies in deliberately omitting the dates of 14 and 15 Feb as my official diary established that on those dates I was far away from that location.

I now state that in this case not only the C.B.I. but also other agencies have decided to help C.B.I. to prejudice the Supreme Court of India against the accused persons named in the case.

After filing its own translated versions the C.B.I. got the vernacular documents translated from the office of the Chief Translator and Interpreter Bombay High Court.

In my case even the office of the Chief Translator and Interpreter Bombay High Court has helped the C.B.I. to prejudice the Supreme Court.

The office of the Chief Translator and Interpreter Bombay High Court translated a document Ex 2600A. I now reproduce the original Hindi version

कुछ दिनों से कस्टम के लोग अपना पैसा बढ़ाने के लिए जोर दे रहे थे।
Landing का काम ठीक प्रकार और बिना अडचन के चलता रहे इसलिए
मोहम्मद डोसा ने कहा कि कस्टम अफसरों से एक मीटिंग करके बातचित कर

ली जाए. इसलिए एक मीटिंग कस्टम अफसर पडवल के through Hotel Persian दरबार Panvel मे 6.1.93 को दिनमे 12 बजे तय हुई.

Now I reproduce the official translation

From the last few days customs people had been forcing to increase their commission. To have landing in the regular way and without delay, Mohammad Dausa decided to have one more meeting with the custom officials. So a meeting took place through Custom officer Padwal in the hall of the Persian Durbar hotel.

The hitch lies in word "one more meeting" which is not in Hindi version. The Hindi version is एक मीटिंग and not और एक मीटिंग

Another hitch lies in part of sentence " So a meeting took place" where as the original word in Hindi is तय हुई and if correctly translated then the same part of the sentence C.B.I will read as" So a meeting was fixed" instead as "So a meeting took place".

The words "took place" indicates certainty of happening of an event in past while the words "fixed" indicates probability in future.

During the hearing before the Supreme Court when my counsel Mr. Mushtaq Ahmad pointed out the fraud, the CBI counsel said that the originals of the documents were before the Supreme Court. To which my counsel replied that the CBI

expects the judges to go through each and every document word by word to compare with originals.

There are lots of other things how the state discriminated in filing appeals against some and not filing appeals against some to protect Bombay police for its failure to save from the ghastliest events of 12 March 1993 despite vital clues received by none other than the then commissioner of police from the accused who were arrested few days prior to 12 March 1993 and who stood convicted for receiving training at Pakistan.

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